

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0389P

Use Tax

Calendar Years 1995, 1996, 1997

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ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the penalty assessed on an audit completed on June 4, 1998.

Taxpayer failed to self-assess and remit use tax. Taxpayer is an Indiana Corporation that constructs subdivision streets, parking lots and installing related underground utilities such as sanitary, sewer, storm, and water lines. In addition the taxpayer does demolition and clearing work, excavating and erosion control.

Taxpayer was assessed use tax on general expense purchases, construction tools and repair parts and construction materials consumed on taxable jobs. Taxpayer had no use tax accrual system in place.

1. Tax Administration – Penalty

DISCUSSION

Taxpayer requests a waiver of penalty because they are a small contractor and experienced exponential growth and were unaware of the tax consequences

Taxpayer's audit report revealed that no use tax accrual system was in place. Taxpayer failed to self-assess as required by statute. 45 IAC 2.2-3-20 clearly states that all purchases of tangible personal property which are stored, used, or consumed in the state of Indiana are subject to the tax.

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The taxpayer was negligent in failing to self assess use tax due.

FINDING

Taxpayer's protest is denied.